

January 26, 2004

**OFFICE OF THE HEARING EXAMINER
KING COUNTY, WASHINGTON**

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REPORT AND DECISION

SUBJECT: Department of Development and Environmental Services File No. **L03P0019**
Proposed Ordinance No. **2003-0532**

HAZEL PARK

Preliminary Plat Application

Location: North side of Southeast 304th Street, approximately 350 feet east of
118th Avenue Southeast

Applicant: Fremantle Development
represented by **Shupe Holmberg**
Baima & Holmberg Inc
100 Front Street South
Issaquah, Washington 98027-3817
Telephone: (425) 392-0250
Facsimile: (425) 391-3055

King County: Department of Development and Environmental Services, *represented*
by
Fereshteh Dehkordi
900 Oakesdale Avenue Southwest
Renton, Washington 98055-1219
Telephone: (206) 296-7173
Facsimile: (206) 296-6613

SUMMARY OF DECISION/RECOMMENDATION:

Department's Preliminary Recommendation:

Approve, subject to conditions

Department's Final Recommendation:

Same as above

Examiner's Decision:

Approve subject to conditions (modified)

EXAMINER PROCEEDINGS:

Hearing Opened:

January 15, 2004

Hearing Closed:

January 15, 2004

Participants at the public hearing and the exhibits offered and entered are listed in the attached minutes. A verbatim recording of the hearing is available in the office of the King County Hearing Examiner.

ISSUES/TOPICS ADDRESSED

- Surface-water drainage
- Pedestrian improvements
- Transfer of density credits

SUMMARY

The proposed subdivision of 15 lots in the urban area, including the use of three (3) density credits, is approved subject to conditions.

FINDINGS, CONCLUSIONS & DECISION: Having reviewed the record in this matter, the Examiner now makes and enters the following:

FINDINGS:

1. **General Information:**

Owner/Developer: Fremantle Development
Dennis Johnson
P.O. Box 3574
Bellevue, WA 98009

Consulting Engineer: Baima & Holmberg Inc.
Shupe Holmberg
100 Front Street South
Issaquah, WA 98027

STR: SW ¼ 4-21-05

Location: North side of SE 304th Street, approximately 350 feet east of 118th Avenue Southeast.

Zoning: R-4-SO

Acreage: 3.02 acres

Number of Lots: 15

Density: 4.97 du/acre

Lot Size: Average 5600 sq.ft.

Proposed Use: Single Family Residential

Sewage Disposal: City of Auburn

Water Supply: City of Auburn

Fire District: King County Fire # 44

School District: Auburn School District

Complete Application Date: July 9, 2003

2. Except as modified herein, the facts set forth in the King County Land Use Services Division's preliminary report to the Hearing Examiner for the January 15, 2004, public hearing are found to be correct and are incorporated herein by this reference. Said report is exhibit no. 2 in the hearing record.

3. A transfer of three development credits to increase the density permitted on this site to 15 dwelling units (5 du/acre) is proposed by the Applicant. The maximum density permitted on the site is six dwelling units per acre.
4. DDES and the Applicant's engineer have determined that a separate surface water detention system is not necessary to store and discharge surface water from the small area in the northeast corner of the site which flows to the east. The dispersal of water collected by roof drains within this area can be accomplished in a way that replicates the existing flow to the east. The adjacent property owner to the east has agreed to this approach. The north basin encompasses approximately 0.35 acres.

Storm water from the south basin will be collected by a detention pond to be located in the southwest corner of the subject property. Discharge from this detention pond will meet the Level 2 flow control requirement of the Surface Water Drainage Manual, so as not to exacerbate flooding problems approximately one mile downstream from the site. Those problems are associated with inadequate maintenance of existing downstream drainage conveyance facilities.

5. Students from the subject property will walk west on Southeast 304th Street to 116th Avenue Southeast, and south on 116th Avenue Southeast to reach Rainier Middle School. High school students will be bussed from Rainier Middle School to Auburn senior high schools. Elementary school students will attend Hazelwood Elementary School immediately south of the subject property, on the south side of Southeast 304th Street. The Auburn School District policy is to bus students who reside north of Southeast 304th Street to the elementary school. The bus stop that will serve the subject property is on the north side of Southeast 304th Street, at 121st Place Southeast.

Sidewalks exist on the south side of Southeast 304th Street, from the subject property to 116th Avenue Southeast, and on the east side of 116th Avenue Southeast to Rainier Middle School. The subject property will be improved with sidewalks on the north side of Southeast 304th Street, along the site frontage. Paved shoulder with curb exists on the north side of Southeast 304th Street, from the subject property west to 118th Avenue Southeast, where a crosswalk will accommodate students crossing Southeast 304th Street to reach the existing sidewalk on the south side of Southeast 304th Street. Paved shoulder with curb also exists between the subject property and the plat of Crystal Meadows, to accommodate students walking from this proposed development to the elementary school bus stop at 121st Place Southeast.

6. Roads within and fronting the plat of Crystal Meadows, approximately 200 feet east of the subject property, were voluntarily constructed by the developer to standards of the City of Auburn. The Auburn School District has requested similar construction of road improvements for the subject property. However, King County only has the authority to require construction to the specifications of the King County Road Standards, but not to a greater standard unless a significant environmental impact is identified. The proposed subdivision of Hazel Park, if developed in accordance with King County Road Standards, would not have a significant environmental impact upon pedestrian safety.

CONCLUSIONS:

1. If approved subject to the conditions recommended below, the proposed subdivision will comply with the goals and objectives of the King County Comprehensive Plan, subdivision and zoning codes, and other official land use controls and policies of King County.

2. If approved subject to the conditions recommended below, this proposed subdivision will make appropriate provision for the public health, safety and general welfare and for open spaces for drainage ways, streets, other public ways, transit stops, potable water supply, sanitary waste, parks and recreations, playgrounds, schools and school grounds and safe walking conditions for students who only walk to school; and it will serve the public use and interest.
3. The conditions for final plat approval recommended below are in the public interest and are reasonable requirements to mitigate the impacts of the development upon the environment.
4. The dedications of land or easements within and adjacent to the proposed plat, as required for final plat approval or as shown on the proposed preliminary plat submitted by the Applicant on October 3, 2003, are reasonable and necessary as a direct result of the development of this proposed plat, and are proportionate to the impacts of the development.
5. The transfer of up to three development credits to the subject property in order to achieve a density of five dwelling units per acre, a maximum of 15 single-family residential lots, is consistent with the purposes and requirements of King County's Transfer of Development Rights (TDR) program.

DECISION:

The preliminary plat of Hazel Park, as revised and received October 3, 2003, is APPROVED, subject to the following conditions of final plat approval:

1. Compliance with all platting provisions of Title 19 of the King County Code.
2. All persons having an ownership interest in the subject property shall sign on the face of the final plat a dedication that includes the language set forth in King County Council Motion No. 5952.
3. A maximum of 15 lots are approved for development on the subject property, utilizing three (3) density credits. The plat shall comply with the maximum and minimum density requirements of the R-4 SO zone classification. All lots shall meet the minimum dimensional requirements of the R-4 SO zone classification or shall be as shown on the face of the approved preliminary plat, whichever is larger, except that minor revisions to the plat which do not result in substantial changes may be approved at the discretion of the Department of Development and Environmental Services. In the event the Applicant elects to provide access to the adjacent property to the east, a revision which eliminates one lot in order to provide an area for road construction can be considered by DDES as a minor revision to this plat.
4. All construction and upgrading of public and private roads shall be done in accordance with the King County Road Standards established and adopted by Ordinance No. 11187, as amended (1993 KCRS), except that variances may be granted by the King County Road Engineer. In the event access is provided through the subject property to the adjacent property to the east, DDES will review the classification of Road A to determine whether improvement to the Urban Minor Access Street Standard remains appropriate.
5. The Applicant must obtain the approval of the King County Fire Protection Engineer for the adequacy of the fire hydrant, water main, and fire flow standards of Chapter 17.08 of the King County Code.
6. Final plat approval shall require full compliance with the drainage provisions set forth in King County Code 9.04. Compliance may result in reducing the number and/or location of lots as

shown on the preliminary approved plat. Preliminary review has identified the following conditions of approval which represent portions of the drainage requirements. All other applicable requirements in KCC 9.04 and the Surface Water Design Manual (SWDM) must also be satisfied during engineering and final review.

- a. Drainage plans and analysis shall comply with the 1998 King County Surface Water Design Manual and applicable updates adopted by King County. DDES approval of the drainage and roadway plans is required prior to any construction.
 - b. Current standard plan notes and ESC notes, as established by DDES Engineering Review, shall be shown on the engineering plans.
 - c. The following note shall be shown on the final recorded plat:

“All building downspouts, footing drains, and drains from all impervious surfaces such as patios and driveways shall be connected to the permanent storm drain outlet as shown on the approved construction drawings # _____ on file with DDES and/or the King County Department of Transportation. This plan shall be submitted with the application of any building permit. All connections of the drains must be constructed and approved prior to the final building inspection approval. For those lots that are designated for individual lot infiltration systems, the systems shall be constructed at the time of the building permit and shall comply with plans on file.”
 - d. The drainage detention facility shall be designed to meet at a minimum the Level 2 Flow Control and Basic Water Quality menu in the 1998 King County Surface Water Design Manual (KCSWDM).
 - e. The 100-year floodplain for any onsite streams or wetlands shall be shown on the engineering plans and the final plat per Special Requirement 2 of the KCSWDM.
 - f. Flow from the northeast basin shall replicate existing conditions to the extent feasible, and shall not be diverted to the south basin. A separate detention facility for the northeast basin is not required.
7. The proposed subdivision shall comply with the 1993 King County Road Standards (KCRS) including the following requirements:
- a. Road A shall be improved at a minimum to the urban minor access street standard. If Road A is extended to serve the adjacent property to the east, DDES shall review the determination of the appropriate classification, and may modify the classification to a subaccess street depending on the number of lots served.
 - b. FRONTAGE: The frontage of the site along SE 304th St. (north side only) shall be improved to the urban collector arterial standard with provisions for a bike lane.
 - c. Tracts D and E shall be improved as joint use driveways per Section 3.01 of the KCRS. These driveways shall be owned and maintained by the lot owners served. Notes to this effect shall be shown on the engineering plans and on the final plat map.

- e. Modifications to the above road conditions may be considered according to the variance provisions in Section 1.08 of the KCRS.
 - f. Sufficient right-of way shall be dedicated along the site frontage with SE 304th Street to allow for the required improvements.
8. All utilities within proposed rights-of-way must be included within a franchise approved by the King County Council prior to final plat recording.
9. The Applicant or subsequent owner shall comply with King County Code 14.75, Mitigation Payment System (MPS), by paying the required MPS fee and administration fee as determined by the applicable fee ordinance. The Applicant has the option to either: (1) pay the MPS fee at final plat recording, or (2) pay the MPS fee at the time of building permit issuance. If the first option is chosen, the fee paid shall be the fee in effect at the time of plat application and a note shall be placed on the face of the plat that reads, "All fees required by King County Code 14.75, Mitigation Payment System (MPS), have been paid." If the second option is chosen, the fee paid shall be the amount in effect as of the date of building permit application.
10. Lots within this subdivision are subject to King County Code 21A.43, which imposes impact fees to fund school system improvements needed to serve new development. As a condition of final approval, fifty percent (50%) of the impact fees due for the plat shall be assessed and collected immediately prior to recording, using the fee schedules in effect when the plat receives final approval. The balance of the assessed fee shall be allocated evenly to the dwelling units in the plat and shall be collected prior to building permit issuance.
11. There shall be no direct vehicular access to or from SE 304th Street from those lots which abut it. A note to this effect shall appear on the engineering plans and final plat.
12. The proposed subdivision shall comply with the Sensitive Areas Code as outlined in KCC 21A.24. Permanent survey marking, and signs as specified in KCC 21A.24.160 shall also be addressed prior to final plat approval. Temporary marking of sensitive areas and their buffers (e.g., with bright orange construction fencing) shall be placed on the site and shall remain in place until all construction activities are completed.
13. Preliminary plat review has identified the following specific requirements which apply to this project. All other applicable requirements from KCC 21A.24 shall also be addressed by the Applicant.
- a. Class 3 wetland (within Tract A) shall have a minimum buffer of 25 feet, measured from the wetland edge. The wetland(s) and their respective buffers shall be placed in a Sensitive Area Tract (SAT). Buffer averaging may be proposed, pursuant to KCC 21A.24.320, provided the total amount of the buffer area is not reduced and better resource protection is achieved, subject to review and approval by a DDES Senior Ecologist. A minimum building setback line of 15 feet shall be required from the edge of the tract.
 - b. A four-foot split rail wood fence shall be installed along the north and east boundary of the wetland tract (Tract A). The design and location of the fence shall be reviewed and approved by the DDES wetland ecologist prior to the engineering plan approval.

Alterations to Wetlands

If alterations of wetlands are approved in conformance with KCC 21A.24, then a detailed plan to mitigate for impacts from that alteration will be required to be reviewed and approved along with the plat engineering plans. A performance bond or other financial guarantee will be required at the time of plan approval, to guarantee that the mitigation measures are installed according to the plan. Once the mitigation work is completed to a DDES Senior Ecologist's satisfaction, the performance bond may be replaced by a maintenance bond for the remainder of the five-year monitoring period to guarantee the success of the mitigation. The Applicant shall be responsible for the installation, maintenance and monitoring of any approved mitigation. The mitigation plan must be installed prior to final inspection of the plat.

14. The following note shall be shown on the final engineering plan and recorded plat:

RESTRICTIONS FOR SENSITIVE AREA TRACTS AND SENSITIVE AREAS AND BUFFERS

Dedication of a sensitive area tract/sensitive area and buffer conveys to the public a beneficial interest in the land within the tract/sensitive area and buffer. This interest includes the preservation of native vegetation for all purposes that benefit the public health, safety and welfare, including control of surface water and erosion, maintenance of slope stability, and protection of plant and animal habitat. The sensitive area tract/sensitive area and buffer imposes upon all present and future owners and occupiers of the land subject to the tract/sensitive area and buffer the obligation, enforceable on behalf of the public by King County, to leave undisturbed all trees and other vegetation within the tract/sensitive area and buffer. The vegetation within the tract/sensitive area and buffer may not be cut, pruned, covered by fill, removed or damaged without approval in writing from the King County Department of Development and Environmental Services or its successor agency, unless otherwise provided by law.

The common boundary between the tract/sensitive area and buffer and the area of development activity must be marked or otherwise flagged to the satisfaction of King County prior to any clearing, grading, building construction or other development activity on a lot subject to the sensitive area tract/sensitive area and buffer. The required marking or flagging shall remain in place until all development proposal activities in the vicinity of the sensitive area are completed.

No building foundations are allowed beyond the required 15-foot building setback line, unless otherwise provided by law.

15. The proposed 6,697 foot tract for recreation space shall be consistent with the requirements of KCC 21A.14.180 and KCC 21A.14.190 (i.e., sport court[s], children's play equipment, picnic table[s], benches, etc.).
- a. An overall conceptual recreation space plan shall be submitted for review and approval by DDES, with the submittal of the engineering plans. This plan shall include location, area calculations, dimensions, final grade and general improvements including landscaping in accordance with KCC 21A.16. The approved engineering plans shall be consistent with the overall conceptual plan.
 - b. A detailed recreation space plan (i.e., landscape specs, equipment specs, etc.) consistent with the overall conceptual plan, as detailed in item a., shall be submitted for review and approval by DDES prior to or concurrent with the submittal of the final plat documents.

- c. A performance bond for recreation space improvements shall be posted prior to recording of the plat.
16. A homeowners' association or other workable organization shall be established to the satisfaction of DDES which provides for the ownership and continued maintenance of the recreation, and sensitive area tracts.
17. Street trees shall be provided as follows (per KCRS 5.03 and KCC 21A.16.050):
- a. Trees shall be planted at a rate of one tree for every 40 feet of frontage along all roads (SE 304th Street & Road A). Spacing may be modified to accommodate sight distance requirements for driveways and intersections.
 - b. Trees shall be located within the street right-of-way and planted in accordance with Drawing No. 5-009 of the 1993 King County Road Standards, unless King County Department of Transportation determines that trees should not be located in the street right-of-way.
 - c. If King County determines that the required street trees should not be located within the right-of-way, they shall be located no more than 20 feet from the street right-of-way line.
 - d. The trees shall be owned and maintained by the abutting lot owners *or* the homeowners association or other workable organization unless the County has adopted a maintenance program. Ownership and maintenance shall be noted on the face of the final recorded plat.
 - e. The species of trees shall be approved by DDES if located within the right-of-way, and shall not include poplar, cottonwood, soft maples, gum, any fruit-bearing trees, or any other tree or shrub whose roots are likely to obstruct sanitary or storm sewers, or that is not compatible with overhead utility lines.
 - f. The Applicant shall submit a street tree plan and bond quantity sheet for review and approval by DDES prior to engineering plan approval.
 - g. The Applicant shall contact Metro Service Planning at 684-1622 to determine if SE 304th Street is on a bus route. If it is a bus route, the street tree plan shall also be reviewed by Metro.
 - h. The street trees must be installed and inspected, or a performance bond posted prior to recording of the plat. If a performance bond is posted, the street trees must be installed and inspected within one year of recording of the plat. At the time of inspection, if the trees are found to be installed per the approved plan, a maintenance bond must be submitted or the performance bond replaced with a maintenance bond, and held for one year. After one year, the maintenance bond may be released after DDES has completed a second inspection and determined that the trees have been kept healthy and thriving.
 - i. A landscape inspection fee shall also be submitted prior to plat recording. The inspection fee is subject to change based on the current County fees.
18. To implement KCC 21A.38.230 which applies to the site, a detailed tree retention plan shall be submitted with the engineering plans for the subject plat. The tree retention plan and the

engineering plans shall be consistent with the requirements of KCC 21A.38.230, as well as the conceptual tree retention plan which is part of the hearing record for this project. No clearing of the subject property is permitted until the final tree retention plan is approved by LUSD. Flagging and temporary fencing of trees to be retained shall be provided, consistent with KCC 21A.38.230B4. The placement of impervious surfaces, fill material, excavation work, or the storage of construction materials is prohibited within the fenced areas around preserved trees, except for grading work permitted pursuant to KCC 21A.38.230B4d(2).

A note shall be placed on the final plat indicating that the trees shown to be retained on the tree retention plan shall be maintained by the future owners of the proposed lots, consistent with KCC 21A.38.230B6. **Please Note that the tree retention plan shall be included as part of the final engineering plans for the subject plat.**

19. Prior to the final plat approval and recording, the Applicant shall provide a valid Transfer of Development Rights (TDR) Certificate approved by the King County Department of Natural Resources to place not more than three additional lots within the proposed development. The certificate must show the applicant as the lawful owner of the development rights.

ORDERED this 26th day of January, 2004.

James N. O'Connor
King County Hearing Examiner *pro tem*

TRANSMITTED this 26th day of January, 2004, to the parties and interested persons of record:

Bob Ford
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Geo Review
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Bruce Whittaker
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Prel. Review Engineer
MS OAK-DE-0100

In order to appeal the decision of the Examiner, written notice of appeal must be filed with the Clerk of the King County Council with a fee of \$250.00 (check payable to King County Office of Finance) ***on or before February 9, 2004***. If a notice of appeal is filed, the original and six (6) copies of a written appeal statement specifying the basis for the appeal and argument in support of the appeal must be filed with the Clerk of the King County Council ***on or before February 17, 2004***. Appeal statements may refer only to facts contained in the hearing record; new facts may not be presented on appeal.

Filing requires actual delivery to the Office of the Clerk of the Council, Room 1025, King County Courthouse, 516 3rd Avenue, Seattle, Washington 98104, prior to the close of business (4:30 p.m.) on the date due. Prior mailing is not sufficient if actual receipt by the Clerk does not occur within the applicable time period. The Examiner does not have authority to extend the time period unless the Office of the Clerk is not open on the specified closing date, in which event delivery prior to the close of business on the next business day is sufficient to meet the filing requirement.

If a written notice of appeal and filing fee are not filed within fourteen (14) calendar days of the date of this report, or if a written appeal statement and argument are not filed within twenty-one (21) calendar days of the date of this report, the decision of the hearing examiner contained herein shall be the final decision of King County without the need for further action by the Council.

MINUTES OF THE JANUARY 15, 2004, PUBLIC HEARING ON DEPARTMENT OF DEVELOPMENT AND ENVIRONMENTAL SERVICES FILE NO. L03P0019.

James N. O'Connor was the Hearing Examiner in this matter. Participating in the hearing were Fereshteh Dehkordi and Bruce Whittaker, representing the Department; Dennis Johnson, the Applicant; and Shupe Holmberg.

The following exhibits were offered and entered into the record:

- | | |
|----------------|--|
| Exhibit No. 1 | Department of Development and Environmental Services file no L03P019 |
| Exhibit No. 2 | Department of Development and Environmental Services preliminary report dated January 15, 2004 |
| Exhibit No. 3 | Application received by DDES on June 13, 2003 |
| Exhibit No. 4 | Environmental Checklist prepared June 3, 2003 |
| Exhibit No. 5 | SEPA Determination of Non-significance issued December 5, 2003 |
| Exhibit No. 6 | Affidavit of Posting indicating September 12, 2003 as date of posting and October 4, 2003 as the date the affidavit was received by the Department of Development and Environmental Services |
| Exhibit No. 7 | Revised Site Plan dated June 11, 2003. |
| Exhibit No. 8 | Assessors maps SW 4-21-05 7 NW 9-21-05 |
| Exhibit No. 9 | Level 1 Downstream Drainage Analysis by Baima & Holmberg, Inc., dated June 13, 2003, and revised October 2, 2003 |
| Exhibit No. 10 | Wetland Analysis report by B-twelve Assoc., Inc., dated August 7, 2003 |
| Exhibit No. 11 | Certificate of Transportation Concurrency dated June 12, 2003 |
| Exhibit No. 12 | Transfer of Development Right Certificate 59 issued August 1, 2003 |
| Exhibit No. 13 | Conceptual drainage plan dated October 3, 2003 |
| Exhibit No. 14 | Map with marking to indicate pedestrian access to schools |